

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 17,235
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals the decision by the Department of PATH denying her General Assistance (GA) for a deposit on a new apartment. The issue is whether the petitioner had an emergency need within the meaning of the pertinent regulations at the time she applied for GA.

FINDINGS OF FACT

1. The petitioner, her infant child, and her mother moved to Vermont from Georgia in the spring of 2001. When they first came to Vermont they were living in a motel, and the petitioner received RUFA benefits (formerly ANFC) of \$604 a month and Food Stamps based on her housing costs at the motel. The petitioner's mother was receiving SSI of \$530 a month.

2. In July the family moved into a Section 8 rent subsidized apartment. They were able to pay their first month's rent out of the petitioner's and her mother's income.

On July 27, 2001 the petitioner applied to the Department for GA to help pay the rent deposit on the apartment. The amount of the deposit was \$900. Because the petitioner and her mother had combined income that was well over the GA maximum for a family of three, the Department asked the petitioner to verify that she had left her last permanent housing in Georgia due to a "catastrophic situation" defined by the regulations that allows the Department to waive the GA income requirements in such situations (see infra).

3. In the meantime the petitioner was able to obtain "pledges" from various area charities of \$500 toward her deposit. The Department then negotiated an agreement with the petitioner's landlord whereby the Department would send the landlord \$100 a month in vendor payments directly from the petitioner's RUFA grant until the deposit was paid. The petitioner initially agreed to these vendor payments.

4. Shortly thereafter, The Department notified the petitioner that her RUFA grant would decrease from \$604 to \$487 a month due to the reduction in her housing costs having moved from a motel to a Section 8 apartment. On August 3, 2001 the petitioner requested a fair hearing to have the vendor payments stopped.

5. A hearing in the matter was held on September 5, 2001. At that time, the Department indicated that it considered its vendor payments to the petitioner's landlord to be voluntary on the petitioner's part, but that it was worried that stopping the vendor payments might lead to the petitioner's eviction. The petitioner stated that she would not have entered into the vendor payment arrangement if she had known her that RUFA grant was going to be reduced by over \$100 per month. The petitioner indicated that she wished to appeal the Department's decision denying her GA in July, and that if she lost that appeal she would make a decision whether she wanted to continue with the vendor payments. The petitioner also agreed to follow up on the pledges of charitable assistance she had received earlier.

6. As of the date of the hearing the Department had made at least two vendor payments of \$100 each to the petitioner's landlord toward her deposit. The petitioner's rent in the subsidized apartment is \$148 a month. Her and her mother's combined income, as of September 1, 2001, is \$1,017 a month. As of the date of the hearing there was no evidence that the petitioner could not afford to make additional payments of \$100 a month for a limited amount of time (between two and

seven months, depending on the actual amount of pledged charitable aid) through vendors.

7. At the hearing the petitioner provided the hearing officer with documents that appear to show that her landlords in Georgia had informed her mother that only she was included on the lease. The hearing officer infers from this that the family had moved to Vermont in anticipation of being evicted because the petitioner and her daughter were living with the petitioner's mother in violation of the mother's lease. There is no evidence, however, that the petitioner's mother had been forcibly evicted from the apartment or that any eviction was imminent.

ORDER

The Department's decision is affirmed.

REASONS

The General Assistance regulations provide that households with income in excess of the RUFA maximum can only receive additional financial assistance if they are experiencing a "catastrophic situation". See W.A.M. 2600 et seq. The regulations define catastrophic situation in the context of loss of housing as follows:

Catastrophic Situations

Any applicant who has an emergency need attributable to one of the following catastrophic situations may have that need met within General Assistance benefits standards. Payment maximums as specified in sections 2611 through 2626 apply to these needs. Eligibility criteria are as follows:

- The income test at 2600 C.1 is not applicable.
- All available income and resources must be exhausted. The resource exclusion at 2600 C.5.b. does not apply if an individual qualifies only under catastrophic rules.
- Alternatives must be explored (for example, private and community resources, family, credit).

Subsequent applications must be evaluated in relation to the individual applicant's potential for having resolved the need within the time which has elapsed since the catastrophe to determine whether the need is now caused by the catastrophe or is a result of failure on the part of the applicant to explore potential resolution of the problem.

. . .

- b. A court-ordered or constructive eviction due to circumstances over which the applicant had no control. An eviction resulting from intentional, serious property damage caused by the applicant, other household members or their guests; repeated instances of raucous and illegal behavior which seriously infringed on the rights of the landlord or other tenants of the landlord; or intentional and a serious violation of a tenant agreement is not considered a catastrophic situation. Violation of a tenant agreement shall not include nonpayment of rent unless the tenant had sufficient financial ability to pay and the tenant did not use the income to cover other basic necessities or did not withhold

the rent pursuant to efforts to correct substandard housing.

. . .

W.A.M. 2602. Emphasis added.

In this case, it is unnecessary to determine whether the petitioner lost her last permanent housing in Georgia due to a court-ordered or constructive eviction (although the evidence produced thus far by the petitioner certainly does not indicate such circumstances). As emphasized, the above regulation requires the prior exploration of "alternatives" before assistance can be granted. In this case, with commendable help from the Department, the petitioner was able to avert the loss of housing by agreeing to have the Department make vendor payments of \$100 a month directly to her landlord until her deposit was paid. There is no indication that the petitioner cannot afford to make these vendor payments. Thus, it must be concluded that the requirements for cash assistance under the catastrophic situation provisions of GA have not been met.<sup>1</sup>

# # #

---

<sup>1</sup>As noted above, the petitioner is still free to decide whether she wishes to continue with the vendor payments.